

January 30, 2015

Connie Cummins, Forest Supervisor
USDA Forest Service
Fremont-Winema National Forest
1301 South G Street
Lakeview, OR 97630
Attn. Lucas Phillips ljphillips@fs.fed.us Katie Blazer <kblazer@fs.fed.us>
comments-pacificnorthwest-fremont-winema@fs.fed.us

Re: Antelope Grazing Allotments Project Draft Environmental Impact Statement dated
December 2014

Dear Connie Cummins,

Concerned Friends of the Winema recommend that you select Alternative 4 because it would best resolve The Forest's apparent conflict of direction between accommodating grazing allotment and providing protection to sensitive, listed and endangered species. Specifically, ongoing livestock conflicts with wildlife (Oregon Spotted Frog and beaver recovery), woody riparian vegetation (willow/aspen recovery), sensitive plants, and groundwater dependent ecosystems (fens). Alternative 4 is the only action alternative that is fully consistent with the Winema National Forest Plan 4-12 which states "[t]he demand for livestock grazing will be met only when it does not conflict with other uses". We also urge you to analyze the once forsaken but very relevant Restoration Alternative in a supplemental DEIS.

Concerned Friends of the Winema

Concerned Friends of the Winema (CFOW), is a non-profit public interest organization headquartered in Chiloquin, Oregon. The organization was begun in 1991 and is a project of Chiloquin Visions In Progress a 501(c) (3) a non profit corporation. CFOW is dedicated to learning about and working to protect and conserve the biological diversity of the Fremont-Winema National Forest, the Klamath Basin and the broader interdependent ecosystem. CFOW has thirteen members, all of whom reside within Klamath County. CFOW seeks to promote ecologically sustainable management practices by engagement with the Forest Service on specific projects and decisions that affect the region's biodiversity and habitats.

Documents Included by Reference

Because much of the current EIS (December 2014) has been minimally modified from the previously withdrawn Environmental Assessments a number of our comment references still apply and so are incorporated here by reference. These include any public comment on and objections to the 2012 EA (withdrawn), the 2014 EA (withdrawn) as well as any correspondence with the Forest Service that we may find appropriate in the following commentary:

- Collaborative public participation during scoping, EA, EIS and alternative development activities, particularly with reference to the requirement to provide ‘public scrutiny;’
- Cattle grazing and restoration projects in these allotments. A report prepared by S.J Andelman and 12 others titled “Scientific Standards for Conducting Viability Assessments under the National Forest Management Act: Report and Recommendations dated November 2001. We also refer to scoping reports for project work that details resource damage to Jack Creek not provided in the EA. And all scoping / EA references to adaptive range /grazing management and related data;
- Adapting to Climate Change on Western Public Lands:
Addressing the Ecological Effects of Domestic, Wild, and Feral Ungulates
Robert L. Beschta, Debra L. Donahue, Dominick A. DellaSala,
Jonathan J. Rhodes, James R. Karr, Mary H. O’Brien,
Thomas L. Fleischner, Cindy Deacon Williams.
- Recent requests for spotted frog pond construction and Forest Service response are also included to demonstrate our main concern about recovery actions for spotted frogs that is hampered by emphasis on grazing in Jack Creek;
- Watershed and Hydrologic studies: Cummings, Michael. 2012. “Ground- and Surface-Water Hydrogeology of the Unconfined Pumice Aquifer, Antelope Unit, Chemult Ranger District, Fremont-Winema National Forest” (February 16): 1–136.
Cooper, David J, and Dave A Weixelman. 2009. Assessing Proper Functioning Condition for Fen Areas in the Sierra Nevada and Southern Cascade Ranges in California: a User Guide. Vallejo, CA: United States Dept. of Agriculture;

The DEIS violates the National Environmental Policy Act

1. The Notice of Intent FR 79:65923-24 failed to “Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.”

CFR 40: 1508.22 Notice of intent. “Notice of intent” means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly: (a) Describe the proposed action and possible alternatives. (b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.

CFR 40: 1501(g) Using the scoping process, not only to identify significant environmental issues deserving of study, but also to deemphasize insignificant issues, narrowing the scope of the environmental impact statement process accordingly (1501.7).

CFR 40: 1505(d) Using the scoping process for an early identification of what are and what are not the real issues (1501.7)

The Notice of Intent for this impact statement does not “describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held”. The NOI does reference a scoping period from 11/2010 for an 2012 EA that was withdrawn in 2013. At the very end of the NOI, six “preliminary issues” are identified. We assert that the NOI should have identified a “proposed scoping process” to obtain up to date information regarding the identification of significant environmental issues.

There has been no scoping period for this project since September 2011. Since 2011 federally listed wolves are now known to inhabit the area. Grazing in wolf habitat is an obvious issue missing from the 2010/2011 scoping. The Oregon spotted frog was listed and critical habitat identified. Grazing in federally identified critical habitat is an issue missing from the 2010/2011 scoping since it was only fully identified in 2014. Chronic and damaging trespass grazing was reported in 2012, 2013 and 2014. Trespass grazing/lack of effective herd control is an issue missing from the 2010/2011 scoping. Severe drought occurred during 2013-2014 and many scientists expect drought to be a recurring phenomena over the next ten years. Drought is an issue missing from the 2010/2011 scoping since it had not occurred. We do not believe that commenting on this DEIS can substitute for the missing and legally required scoping process. The lack of a timely scoping process will cast doubt on the credibility of this DEIS which is based on scoping information that is 3 years old for a 2012 EA that has been withdrawn.

Public Participation

Our prior positive experiences with Fremont-Winema Forest personnel and line management have been belied by our current efforts to meaningfully participate in formulating alternative actions.

We are a conservation organization. Our uses and enjoyment of, and concern for the deteriorated condition of, the public lands associated with the Antelope allotment are adversely affected with the decision. We have been excluded from any effective “public scrutiny” in the EA and the process of developing alternative actions. Our organization has a history of collaborating with the Fremont-Winema Forest projects in scoping and developing project alternatives, assisting in on the ground planning, monitoring and evaluating effects of actions. And in the instant case, objecting to harmful cattle grazing on the Antelope allotment. Particularly, we requested that we be included in IDT discussions and considerations that could have resulted in a more reasoned set of alternatives with respect to F. S. obligations to consider the broader aspects of watershed analysis and protection of flora and fauna. We have expressed concerns to the Fremont-Winema National Forest staff about the adverse ecological impacts of the cattle grazing in letters and at public meetings. We have provided letters of support to the Forest Service about restoration projects critical to survival of Jack Creek Oregon spotted frogs. Appellants’ members have hiked, photographed, and watched wildlife in the area of the Antelope Grazing Allotment. We will be harmed and hold the Forest Service entirely accountable if cattle grazing, as a result of this decision, deprives us of seeing Oregon spotted frogs in abundance as they formerly existed within their watershed habitat.

We object to Forest management ignoring, and the consequent de facto rejection without any response, of numerous requests to participate in the re-development of a scientifically sound EA by interested publics who have established standing at various points during this more than six year Antelope Grazing Project process to determine whether to re-issue a grazing permit. This experience has continued from scoping in 2009 through ID Team development of this current draft EIS document. CFOW’s reasons beyond

1. We hold that the costs in agency effort and time by not including those interested persons with demonstrated substantive scientific and practical environmental knowledge, opinions and view points in the development of two EAs and the re-development of this current draft EIS has now exceeded by far the incidental costs in time and effort to Forest personnel and administrative costs.
2. We hold that the basis of agency management and the inclusion of public involvement is based on citizen trust, and that the on the ground evidence during this excruciatingly drawn out procedure has seriously diminished the value of that ‘Coin of the Realm.’ This can only be restored by a continuous

inclusion of interested publics in any finally determined implementation. The traditional Forest Service public participation process is seriously flawed insofar as authentic exchange of concerns and identification of issues is concerned. In CFOW's experience, every time that the Forest Service have become more open to participation the results have been far more beneficial, to wit the Lakeview Stewardship Unit process and the early days of the Fremont-Winema Resource Advisory Committee among others.

3. We hold that such administrative performance is capriciously irresponsible to both the current process and to the American taxpayer who should expect some consideration when determining management direction. The public needs assurance that both Agency and Permittee are assured of adequate resources to implement and maintain the contract. A disclosure of actual costs and any planning and alternative projected costs is needed.

Grazing

ALTERNATIVE 3 in the DEIS states:

Administration of the Allotment

Permitted grazing would continue under management systems designed to be consistent with Forest Plans standards and guidelines for no more than 419 c/c pair under Term Grazing Permit and 75 c/c pair under Term Private Land Permit with grazing authorized from May 1 to October 15. Herd number and size may vary each year for ease of management and movement of cattle through the pastures, meadows, and units. Examples of early to late season use for the various pastures and their approximate timing of use each year are displayed in Tables 2 and 3 below. Actual allotment on/off dates may vary up to two weeks based upon range readiness conditions and utilization data (see description below). Pasture move dates will be determined by allowable use levels and other grazing standards being met in key areas across the allotment such as fens, meadows, and spring areas.

This alternative would provide improved dispersal of livestock and flexibility in management of grazing, when compared to the current system by;

1. providing additional grazing in the North Sheep Pasture (an unused pasture administratively moved from the Jack Creek Sheep and Goat Allotment),
2. including the private lands found along Jack Creek known as Moffit and Jamison Ranch (Upper and Lower) under a new term private land permit
3. continuing the term grazing permits in the Tobin Cabin Pasture and Stimson Meadow and,
4. allowing grazing in four meadows or riparian areas currently excluded from grazing (Round Meadow, Rider's Camp, Cannon Well, and Jack Creek).

Actions Proposed	Selected Parameters
Allotment Size, in eight pastures	169,559 acres
Max. AUMs Permitted	3,300
Max. Cow/Calf Pair Permitted	419 c/c pair under a Term Grazing Permit & 75 cow/calf pair under Term Private Land Permit
Number of Herds	Variable
Permitted Season of Use	May 15- September 30
Authorized Season of use	May 1 - October 15
Permitted Duration of grazing	4.5 months
Maximum Miles of Fence Construction	20
Miles of Fence Reconstruction	20.7
Minimum Miles of Fence Removal	1.4

Number of new resource protection fences	8
Number of resource protection fences to reconstruct	2
Maximum number of resource protection fences to maintain.	10
Number of spring sources needing maintenance	5
Number of new spring developments	4
Number of ponds needing reconstruction	14

Implementation of these improvements will be scheduled for completion over the next three to five years.

CFOWS COMMENTS

The Forest currently lacks adequate resources and has no assurance that additional support will or may be made available to accomplish an effective grazing program while meeting its concurrent direction to protect sensitive, listed and endangered species, particularly the Oregon Spotted Frog and its habitat cohorts.

The extensive grazing management proposal in Alternative Three expresses a considered effort to gradually improve plant communities over time. By implication it assumes adequate administrative, staff and financial resources to effectively execute a new ‘adaptive’ herd management program of expanded pasture and meadow rotation, and adequate maintenance, repair and capital construction during the projected experimental period. The Forest also assumes a willing permittee with adequate human and financial resources to manage herd control, construction, maintenance and repair of infrastructure as part of whatever agreement may be agreed. It is a complex and demanding plan to administer and implement for both parties, Forest and permittee.

Observed experience from scoping (2010) to date (2015) belie such capabilities by either party in whatever cooperative manner may have been or may be attempted. Prior on site evidence and both EAs and this EIS documents indicate that efforts have been considerably less than even basically adequate to begin to move toward either current or the stated objectives. The inventory lists of infrastructure repair, maintenance, reconstruction and restoration display serious concerns as to Forest Service and permittee capability or motivation to meet standards.

The grazing plan described is certainly ambitious and focuses on the basic principle of herd rotation as practiced on many private farms and ranch operations where greater fencing, watering and salting controls are available, and protection of listed and sensitive wildlife issues are not present.

Had this method been initiated years ago with both willing Forest and permittee personnel buy in and with more generous and continuous governmental support, perhaps gradually bringing the open range character of public land use into an exclusive ranch landscape might have worked. However today, with personnel and other budgetary constraints and the legal presence of listed and sensitive wildlife species requiring even more dedicated dollars the plan borders on capricious and irresponsible.

Implementing rotational grazing effectively without adequate initial fencing and natural barriers would require intensive and consistent riding herd by the permittee’s personnel and consistent presence by Forest personnel to ensure compliance while additional infrastructure crews built fencing and watering

structures of a more adequate nature than has been observed to date. Relaxation of early enforcement would be far more costly to both parties if the intent is to make the system work. This would require a carefully developed implementation plan designed and agreed before any seasonal work begins. Such a plan laying out a series of specific objectives, schedules, duties for each and all, responsibilities and accountabilities has not been located in either of the EAs or EIS documentation. The Forest should not expect the interested public to accept such a plan without the specifics being displayed in the EIS, and be directly included as an integral part of the grazing contract.

Inclusion of the detailed operating plan in the permittee contract is necessary because the contract provides a description of the Allotments use as a collateral asset to any lender for permittee operations. The permittee also would need to know specific expectations in order to develop an effective business plan that will guide his actions more successfully and to assure the Forest of the likelihood of EIS conformance.

The lack of such a plan, although brought to the attention of the EA IDT during the October (2013) meeting in Chemult, and in prior and successive comments and objections questions the thoroughness and authenticity of the grazing plan in this EIS.

The proposed alternatives 3 and 5 will allow grazing to damage up to 10% bare ground in these sensitive areas contrary to Forest Plan S&G 23. Adaptive management appears to only address impacts in excess of this standard, but long term ecological damage is likely to have occurred long before the 10% Forest Standard is exceeded. Grass may grow back in trampled areas but that does not mean that gullies from trailing or streambank trampling has not contributed to further reduced wetland function. The DEIS failed to disclose that resumed grazing in areas currently excluded from grazing is certain to have adverse impacts that will be allowed to accumulate until exclusion is once again necessary. The DEIS fails to acknowledge that adaptive management strategy to allow grazing until the impacts exceed some standard is not a credible restoration technique. Ecological impacts are not easily reversed with short periods of rest as with deferred grazing. Gullies, headcutting, stream channel widening, aggradation, loss of surface flow and lowered water tables are long term and possibly irreversible impacts.

Conflicting Directions

We appreciate the history and culture of western lands use and of Forest Service Direction that encourages tipping the scales toward grazing while downplaying another Service Direction supported by scientific evidence requiring protection of the Oregon Spotted Frog. The Forest has displayed a clear intent to not adequately value the status of the Oregon Spotted Frog, its habitat cohorts or their habitats. The 2011 DN and accompanying funding to create frog ponds in an attempt to preserve life cycle quality ponds has dragged on with 'deliberate speed' until last season (2014). At which time, too shallow, unfinished ponds were dug in sites that expose any frogs yet to colonize the area to predation. These conditions were observed on the ground in the absence of any notification of the Forest's action.

The DEIS p. 3-71 states that maintaining [spotted frog] habitat would also allow for reintroduction if the population becomes extinct in the near term. Speculation about reintroduction gives the reader and decision maker the false impression that extirpation of Jack Creek spotted frogs is easily reversed. The loss of this unique high elevation population would be an irretrievable loss and constitutes a significant but undisclosed impact. The DEIS 3-78 erroneously states that "The impacts to habitat will be immeasurable at the scale of the Forest. Therefore, this project will not contribute to a negative trend in OSF viability on the Forest."

The cumulative effect of livestock grazing over space and time over the last 20 years would contribute to the potential loss of this distinct population of spotted frogs. The loss of any frog population would certainly contribute to a negative trend as discussed in the spotted frog listing.

We object to the Forest Service failure to request US Fish and Wildlife Service assistance with development of the SMP and the failure of the DEIS to include expert opinion from the US Fish and Wildlife Service. For example, the DEIS p. 3-80 falsely states that “The incremental effects of Alternatives 3 and 5 to OSF and OSF habitat, when added to all of the past, present and reasonably foreseeable future actions are not expected to impact the viability of OSF populations.” The DEIS provides no scientific basis for this conclusion which is contradicted by the best available science in the Oregon spotted frog listing.

2014 SEASON EXPERIENCE ON ANTELOPE PROJECT LANDS

The Fremont-Winema Forest has omitted 2014 seasonal experience on the Antelope Grazing Allotment from this draft EIS.

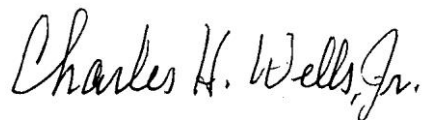
The consequential denial of new evidence gathered, or that could have been gathered, during the grazing season has by implication further expressed the Forest’s intent to extirpate the resident subspecies of Oregon Spotted Frog in order to continue permitting cattle grazing on this unique landscape. It has capriciously continued to confront the USF&W listing of the Oregon Spotted Frog and flagrantly disregarded the Endangered Species Act.

The Forest also did not account for specific effects of the current drought and the resultant increased devastation of Oregon Spotted Frog fen habitat due to cattle grazing, trampling and drinking in the essential ground water based ecosystem water supply.

It also has not adequately put forth any specific measures to accommodate these fen habitats in the forthcoming drought of the 2015 season.

Concerned Friends of the Winema look forward to the possibility of an early substantive discussion of remedies to our concerns and the concerns of our co-commenters on this EIS. We trust that this will occur prior to any commitments to a grazing season

Sincerely,



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